IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO.3035 of1998

Shri Sunil Balwant Kelgane,)
Age adult, At Tekvali, Post)
Machutar, Taluka Mahabaleshwar)
Dist. Satara.)..PETITIONER

Versus

1.State of Maharashtra through)
its Secretary, Tribal)
Development Department,)
Mantralaya, Mumbai-400 032)
2.Chairman,)
Committee for Scrutiny and)
Verification of Tribe Claims)
Pune.)
3.Principal, Ayurved Prasarak)
Mandal's Sheth Chandanmal)
Mutha Aryangla Vaidak)
Mahavidyalaya, Satara.)..RESPONDENTS

Mr.R.K. Mendadkar, for the Petitioner
Mr. C.R. Sonawane, A.G.P. for Respondent Nos.1 and 2.
Mr. A.V. Anturkar, for Respondent No.3.

CORAM :F.I.REBELLO & S.P. KUKDAY,JJ.
DATED : 4th February, 2005

ORAL JUDGMENT (PER F.I. REBELLO, J.)

1. The petitioner was appointed with the respondent No.3 against a post reserved for ST on 25th November, 1994. It is the case of the petitioner that he belongs to Mahadeo Koli Tribe. His caste certificate was sent to the Committee for verification. The Committee by its order dated 30th September, 1995 was pleased to reject the caste claim of the petitioner. It is this order which is the subject matter of the present petition.

2. The petitioner has assailed the finding of the Committee principally on the following grounds:- It is

submitted that in terms of the G.R. in force against the order of the Caste Scrutiny Committee an Appeal was available. That appeal is no longer available consequent to the G.R. being revoked. It is pointed out that in such a case a Division Bench of this Court in the case of **Ramesh Kishan More vs. State of Maharashtra & Ors., 1996 Mh. L.J. 175,** has taken a view that right of Appeal should be given and the State Government should also constitute the Appellate Authority or the matter should be referred to the new Committee as constituted. On hearing the learned Counsel we are not impressed with the argument. In the instant case the case of the petitioner was referred on 25th November, 1995. The G.R. which is issued much provides for Appeal was repealed in 1993. It is, therefore, clear that right of Appeal could not be availed of by the petitioner and consequently that contention stands rejected.

. Next it is contended that the matter before the Committee proceeded exparte and no fair opportunity was given to the petitioner. It is contended that he could not appear before the Committee as there was a strike and he was not relieved. There is nothing before us to show that the petitioner for any reason whatsoever applied to the Committee for time on the ground that he was not in a position to attend. In these circumstances we do not find any reason to interfere with the order of the Committee on the ground that the petitioner was denied a fair opportunity. Once the petitioner was informed, if the petitioner wanted time it was for the petitioner to seek time. The second contention is also rejected.

. It is thirdly contended that the Committee which was constituted could not have examined the cases of persons employed with institutions like the respondent No.3. There is nothing before us to show that the petitioner objected to the Committee considering the matter. It was always open to the petitioner for the purpose of getting his caste claim verified to go before a Specialised Committee which is entrusted the work of verifying the caste claims. If the petitioner had objected that contention perhaps could have been considered. In the absence of the petitioner objecting then it is not possible for us to accept that contention.

We, therefore, do not propose to interfere on that count.

3. It is lastly submitted that whatever be the decision the Committee has proceeded on the footing that the School Leaving Certificate of the petitioner's father was recorded as Hindu Koli. The petitioner seeks to rely on the G.R. issued by the Government dated 15th June, 1995 whereby other backward communities are listed which includes Koli. Learned Counsel, however, contends that considering paragraph 4 of the said G.R. once he was recruited before the said G.R. came into force his services cannot be terminated. In so far as this contention is concerned, considering that till date the petitioner does not have a certificate verified by the Caste Scrutiny Committee as belonging to the Koli Community it will not be possible for us to consider that contention and whether the said G.R. applies to the institution of Respondent No.3. It will be for the respondent NO.3 to consider that aspect and if the

G.R. applies then not to terminate the services of the petitioner if otherwise he is entitled to hold the post. That, however, will be subject to the petitioner getting his caste verified which will be subject to the following directions:-

(i) The petitioner will apply to the Competent Authority to get his caste certificate that he belongs to other backward class within two weeks from today. On receiving the application the Competent Authority to issue the certificate if the petitioner prima facie proves his caste claim, within eight weeks of the application. The Petitioner on receipt of the certificate if any, within four weeks to produce the same to the Management 'employer'.

(ii) The employer to forward the certificate to the Committee for verification. If the Committee verifies the certificate then the Respondent NO.3 to pass appropriate orders for seeking benefit of G.R. dated 15th June, 1995.

(iii) The petitioner makes a statement that he will apply to the Competent Authority within two weeks from today. The Competent Authority on considering the documents produced to issue the certificate within eight weeks thereafter. On the petitioner thereafter producing the document before the Respondent No.3, the Respondent NO.3 to forward the same to the Committee constituted. The Committee to dispose of the same at any rate within six weeks thereafter.

(iv) On behalf of the petitioner the learned Counsel makes

a statement, which is accepted, that the petitioner will not

claim the status of Scheduled Tribe Mahadeo Koli.

. In the meantime the order of termination dated 27th

May, 1998 not to be given effect to.

(F.I. REBELLO, J.)

(S.P. KUKDAY, J.)